

RAS 11092



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January 19, 2006 (9:26am)

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

January 17, 2006

VIA E-MAIL & U.S. MAIL

Honorable E. Roy Hawkens,
Administrative Judge & Chair,
Atomic Safety and Licensing Board Panel
Mail Stop T-3 F23
U. S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Re: I/M/O AMERGEN ENERGY COMPANY, LLC
(License Renewal for Oyster Creek N.G.S.)
Docket No. 50-219-LR
ASLBP No. 06-844-01-LR

Dear Chairman Hawkens and Honorable Judges:

The New Jersey Department of Environmental Protection ("NJDEP") is in receipt of the Board's Order of January 10, 2006, in the above-captioned matter. That Order directed additional briefing on two points. The first point concerned the contention of the Nuclear Information and Resource Service (and collective parties) as to the drywell liner corrosion management program. The Department was not directed to respond to that first point.

The second point concerns the Department's contention on the combustion turbines (CTs). The Board called for identification with specificity of the contractual agreement (or equivalent) "which demonstrates that AmerGen can rely on First Energy to maintain, inspect, and test the combustion turbines in accordance with AmerGen's aging management plan." (Order, pages 2 to 3). To the Department's knowledge, neither AmerGen nor First Energy has supplied that contractual agreement, or its equivalent, to the Board or to the Department. Since AmerGen has apparently not taken

TEMPLATE = SECY-037

SECY-02



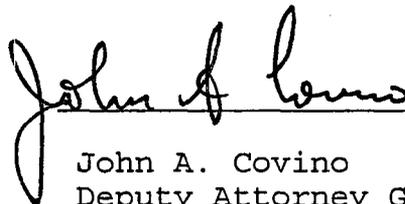
that step, the Department has not been able to examine such agreement and is not in a position to respond to the first and second aspects of Question 2 posed by the Board at this time. The Department can respond to the Board to the extent of stating that, if the combustion turbines are not available, there is a greater likelihood of core damage in the event of a station blackout. When AmerGen supplies the contractual agreement to the Board and the Department, the Department will be able to respond further.

As to the third part of Question 2, AmerGen's own response to the Board provides support for the Department. On page 26 of AmerGen's response, it acknowledges that its license transfer application states that the Oyster Creek N.G.S. "would continue to rely on the CTs as an alternative source of AC power 'through appropriate contractual arrangement.'" (AmerGen Response, p. 26). Since AmerGen has thus stated that it will rely on CTs as an alternative source of power, AmerGen cannot now say that the CTs will not be needed. Further, AmerGen, rather than the Department, is the party which should have the burden of demonstrating that it has made all contractual arrangements for the provision of the CTs and that the CTs are available in good working order for immediate operation if the need arises. Without having provided the contractual arrangement to the Board or to the Department, AmerGen cannot expect that either the Board or the Department can make a meaningful review of such contract on the question of whether, in fact, the CTs will be available if needed.

Respectfully,

NANCY KAPLEN
ACTING ATTORNEY GENERAL OF NEW JERSEY

By: _____



John A. Covino
Deputy Attorney General

cc: Hon. Paul B. Abramson, Administrative Judge
Hon. Anthony J. Baratta, Administrative Judge
Service List
(All by E-Mail & US Mail)